A.F.R. 512

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

(Division Bench)

CORAM : HON'BLE SHRI S.R. NAYAK, C.J. &
HON'BLE SHRI D.R. DESHMUKH, J

WRIT PETITION NO.2820 OF 2005

ORDER FOR CONSIDERATION

Sd/-
Chief Justice

HON'BLE SHRI D.R. DESHMUKH, J I Agree.

Sd/-
Dilip Raosaheb Deshmukh
Judge

POST IT FOR PRONOUNCEMENT
OF ORDER ON: **06/03/2006**

Sd/-
Chief Justice

A.F.R.

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

(DIVISION BENCH)

CORAM : HON'BLE SHRI S.R. NAYAK, CJ.
HON'BLE SHRI D.R. DESHMUKH, J.

WRIT PETITION NO.2820 OF 2005

PETITIONERS

1. Rishi Dikshit, S/o G.S. Dikshit, Aged about 28 years, R/o Bada Chowk, Shyam Nagar Raipur, Dist. Raipur (C.G.)
2. Rajesh Parihar, S/o Shri Onkar Singh Parihar, Aged about 38 years, R/o A-1 Maitri Vihar, Amlidi Road, New Puraina, Raipur.
3. Natraj Sharma, S/o R.D. Sharma, Aged about 42 years, R/o B-1/22 Rohini Puram, Raipur
4. Tarunesh Parihar, S/o Shri Onkar Singh Parihar, Aged about 34 years, R/o Shyam Nagar, Near Nikki Plastic, Raipur
5. Manharan Yadav, S/o Sukhram Yadav, Aged about 48 years, R/o 65, Samta Colony, Raipur
6. Dilharan Yadav, S/o Sukhram Yadav, Aged about 42 years, R/o 65, Samta Colony, Raipur
7. Anupam Raghav, S/o S.S. Raghav, Aged about 26 years R/o MIG -6 Mahavir Nagar, Raipur

Versus

RESPONDENTS

1. State of Chhattisgarh, Through the Secretary, Department of Commercial Taxes (Exise), D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. The Chief Secretary, State of Chhattisgarh, D.K.S. Bhawan, Raipur (C.G.)
3. The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

4. The Collector, Raipur, Dist. Raipur (C.G.)

5. The Collector, Bilaspur, Dist. Bilaspur (C.G.)

6. The Collector, Raigarh, Dist. Raigarh (C.G.)

7. The Collector, Mahasamund, Dist. Mahasamund (C.G.)

8. The Collector, Durg, Dist. Durg (C.G.)

9. The Collector, Janjgir-Champa, Dist. Janjgir-Champa (C.G.)

10. The Collector, Surguja, Dist. Surguja (C.G)

11. The Collector, Rajnandgaon, Dist. Rajnandgaon (C.G)

12. The Collector, Dhamtari, Dist. Dhamtari (C.G)

13. Amit Singhal, S/o Hukumchand Singhal, Behind State Bank, Dhamtari (C.G,) – Licence of Group No. 1, Ganjpara, District Dhamtari
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

14. Rupesh Jhanwar, S/o Madanlal Jhanwar, Shanti Nagar, Dhamtari (C.G.)- Licence of Group No. 3, Gokulpur, District Dhamtari.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

15. Surinder Singh, S/o Chanderdev Singh, Housing Board Bhilai-Licence of Group No. 4, Tikrapara, District – Dhamtari
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

16. Mukhdev Singh, S/o Late Dashrath Singh, Parijat Colony, Bilaspur (C.G.) – Licence of Group No. 6, Kurud, District Dhamtari
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

17. Onkar Das, S/o Late Narayan Das Rathi, Saja, Post Saja – Licence of Group No. 7, Kondapar District Dhamtari
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

18. Rekhram, S/o Guhelram Sahu, Gram Rudri, Distt. Dhamtari – Licence of Group No.8, Bhakara, District Dhamtari.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

19. Anil Pal, S/o Kewal Pal, G.E. Road, Civil Lines, Raipur – Licence of Group No.9, Magarlod, District Dhamtari.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

20. Arvind Singh, S/o Upendra Singh, Raipur, Raipur (C.G.) – Licence of Group No. 5 Sahdeopali, District Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

21. Surendra Prasad Gupta, S/o Ramratan Prasad Gupta, Gram – Tilda, Purani B, Raipur (C.G.) – Licence of Group No. 6, Sarangarh, District Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

22. Brajesh Singh, S/o Shivsevak Singh, Kumharpara Jagatpur, Dimrapur, City Kotwali, Raigarh (C.G.) – Licence of Group No. 11, Baramkela, District Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

23. Munna Singh, S/o Ramlagan Singh, Lochan Nagar, Chakardhar Nagar, Raigarh (C.G.) – Licence of Group No. 14, Gargoda, District, Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

24. Shiv Shankar, S/o Shrihari Lal Ranai, Patna, Baikunthpur, Dist. Korea (C.G.)-

Licence of Group No. 16, Dharamjaigarh, District Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

25. Pradeep Gupta, S/o Triveni Gupta, Azad Nagar, Godripara, Manendragarh, Dist. Korea (C.G.) – Licence of Group No. 13, Kharsia, District Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

26. Himanshu Pandhar, S/o Chaitanya Pandhar, Kumharpara Jagatpur, Dimrapur City Kotwali, Raigarh (C.G.) – Licence of Group No. 15, Laikunga, District Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

27. Shrawan Kumar Tiwari, S/o Ramnivas Tiwari, G.E. Road, Civil Lines, Raipur (C.G.) – Licence of Group No. 3, Ghodari, District Mahasamund.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

28. Anil Kumar Gupta, S/o Rajkumar Gupta, Jodhapur Ward, Dhamtari (C.G) – Licence of Group No. 5, Bhurkoni, District Mahasamund.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

29. Babulal Satnami, S/o Munnilal, Parsada, Thana – Khar, Dist. Raipur (C.G.) – Licence of Group No. 6, Pithora, District Mahasamund.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

30. Madan Yadav, S/o Yadu Yadav, G.E. Road, Civil Lines, Raipur (C.G.) – Licence of Group No. 7 Bagbahra, District Mahasamund.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

31. Dili Palai, S/o K.C. Palai, Netaji Chowk,

Katora, Raipur (C.G.) – Licence of Group No.8, Komakhan, District Mahasamund.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

32. Shivbabu, S/o Hari Prasad, Sector – 3, Shankar Nagar, Raipur (C.G.) – Licence of Group No.1 – Sarkanda, District Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

33. Babban Roy, S/o Temri Roy, Rajendra Nagar, Janta Colony, Civil Lines, Raipur (C.G.) – Licence of Group No. 2, Mungeli Naka, District Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

34. Ramraj Yadav, S/o Visheshwar Yadav, Budhwari Bazar, Sakti, Dist. Janjgir-Champa (C.G.) – Licence of Group No. 3, Kota, District Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

35. Surendra Jaiswal, S/o B.N. Jaiswal, Singroli, Baiden Dist. Sidhi (M.P.) – Licence of Group No. 7, Chilhati, District Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

36. Ram Iqbal, S/o Kesho Yadav, Sector – 3, Shankar Nagar, Raipur (C.G.) – Licence of Group No. 9, Sakri, District Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

37. Siyaram Yadav, S/o Ramhilavan Yadav, Parijat Colony, Bilaspur (C.G.) – Licence of Group No. 14, Hirri , District Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

38. Janil Sharma, S/o Bhudani Sharma, Sector – 3, Shankar Nagar, Raipur (C.G.) – Licence of Group No. 22, Chuchuhiya Para, District Bilaspur.

Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

39. Jitendra Singh, S/o Jagdish Singh, 15/262, Chandania Para, Beside Canal, Janjgir, Dist. Janjgir-Champa – Licence of Group No. 1, Badpara, District Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

40. Vinay Prasad Gupta, S/o Vishnu Prasad, 15/262, Chandania Para, Beside Canal, Janjgir, Dist. Janjgir-Champa – Licence of Group No. 3, Posour, District Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

41. Surist Kumar Singh, S/o Kailash Singh, 15/262, Chandania Para, Beside Canal, Janjgir, Dist. Janjgir-Champa – Licence of Group No. 3, Surajpur, District Sarguja.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

42. Bholu Singh, S/o Jagdish Singh, 15/262, Chandania Para, Beside Canal, Janjgir, Dist. Janjgir-Champa – Licence of Group No. 2, Hadabandh, District Mahasamund.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

43. Shiv Kumar Yadav, S/o Bhola Yadav, 15/262, Chandania Para, Beside Canal, Janjgir, Dist. Janjgir-Champa – Licence of Group No. 19, Tifra, District Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

44. Satendra Singh, S/o Ram Narayan Singh, 30, Block B, House No. 4, RSB Tower, Tar Bahar, Bilaspur (C.G.) Licence of Group No. 4, Vijaypur, District Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

45. Abhay Singh, S/o. Laxmi Singh, 30, Block-B, House No.4, RSB Tower, Tar Bahar, Bilaspur (C.G.) – Licence of Group No.7, Godam District, Raigarh.

46. Dhanesh Singh, S/o. Suresh Singh, 30, Block-B, House No.4, RSB Tower, Tar Bahar, Bilaspur (C.G.) – Licence of Group No.13, Chakarbhata, District, Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

47. Kamta Prasad, S/o. Ganga Prasad Choubey, Lochan Nagar, Thana – Chakardhar Nagar, Raigarh (C.G.) – Licence of Group No.2, Jalampur Ward, District Dhamtari
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

48. Munna Singh, S/o. Ram Lakhan Singh, Lochan Nagar, Thana – Chakardhar Nagar, Raigarh (C.G.) – Licence of Group No.14, Garghoda, District, Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

49. Ranjit Singh, S/o. Ramdhir Singh, House No.27/126, Vinoba Nagar, Boirdadar, Raigarh (C.G.) – Licence of Group No.8 Jashpur, District Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

50. Ram Pravesh Singh, S/o. Late Hardwar Singh, House No.27/126, Vinoba Nagar, Boirdadar, Raigarh (C.G.) – Licence of Group No.4, Raipura, District, Raipur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

51. Ramesh Singh, S/o. Sharda Singh, 27, Kholi, Vikas Nagar, Bilaspur (C.G.) – Licence of Group No.9, Khamtarai, District Raipur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

52. Chote Lal Singh, S/o. Jagardev Singh, 27, Kholi, Vikas Nagar, Bilaspur (C.G.) – Licence of Group No.8, Jarhagaon, District, Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

53. Phoolchand Yadav, S/o. Ramkhilavan Yadav, 27, Kholi, Vikas Nagar, Bilaspur (C.G.) – Licence of Group No.18, Takhatpur, District, Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

54. Subhash Singh, S/o. Shriram Singh, 27, Kholi, Vikas Nagar, Bilaspur (C.G.) – Licence of Group No.20, Godkhami, District, Bilaspur
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

55. Kesar Singh, S/o. Bhima Singh, 27, Kholi, Vikas Nagar, Bilaspur (C.G.) – Licence of Group No.21, Sildaha, District Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

56. Banwari Shukla, S/o. Awadh Narayan Shukla, Sector 3, Shankar Nagar, Raipur (C.G.) – Licence of Group No.20, Katgi, District Raipur
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

57. Shiv Babu, S/o. Hari Prasad, Sector 3, Shankar Nagar, Raipur (C.G.) – Licence of Group No.1, Sarkanda, District, Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

58. Ram Iqbal, S/o. Keso Yadav, Sector 3, Shankar Nagar, Raipur (C.G.) – Licence of Group No.9, Sakri, District, Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

59. Janil Sharma, S/o. Bhudani Sharma,

Sector 3, Shankar Nagar, Raipur (C.G.) – Licence of Group No.22, Chuchueiya, District Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

60. Santosh Kumar Singh, S/o. Mudrika Singh, House No.190, Pratapganj, Thana – Sarangarh, Raigarh (C.G.) (C.G.) – Licence of Group No.12, Bade Lengha, District, Raigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

61. Vikram Biswal, S/o. Radha Nath Biswal, House No.190, Pratapganj, Thana – Sarangarh, Raigarh (C.G.) – Licence of Group No.16, Sarsiwa, District Raipur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

62. Swaran Kumar Tiwari, S/o. Ram Niwas Tiwari, G.E. Road, Civil Lines, Raipur (C.G.) (C.G.)– Licence of Group No.3, Ghorari, District Mahasamund.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

63. Madan Yadav, S/o. Yadu Yadav, G.E. Road, Civil Lines, Raipur (C.G.) – Licence of Group No.7, Bagbahra, District Mahasamund.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

64. Anil Pal, S/o. Kewal Pal, G.E. Road, Civil Lines, Raipur (C.G.) (C.G.) – Licence of Group No.9, Magarload, District, Dhamtari.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

65. Ashok Lanka, S/o. Purendra Lanka, 14/359, Dabra, Dist. Janjgir-Champa (C.G.) (C.G.) – Licence of Group No.27, Bhatapara, District, Raipur
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

66. Manish Upadhyay, S/o. Hriday Narayan Upadhyay, 14/359, Dabra, Dist. Jajgir-Champa (C.G.) (C.G.) – licence of Group No.11, Bhawarpur, District, Mahasamund.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

67. Mithlesh Paswan, S/o. Bateshwar Paswan, 10/610, Near Memonpul, Barier Chowk, Champa (C.G.) – Licence of Group No.31, Nayapara, District, Raipur
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

68. Shrinivas Pandey, S/o. Tegri Pandey, 10/610, Near Memonpul, Barier Chowk, Champa (C.G.) – Licence of Group No.9, Sakra, District, Mahasamund.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

69. Rakesh Choubey, S/o. Ram Murti Choubey, House No.31/434, In Front of Arora Enterprises, Dayalbandh, Bilaspur (C.G.) – Licence of Group No.5, Lormi, District – Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

70. Anil Kumar Mahapatra, S/o. Bali Ram Mahapatra, House No.31/434, In Front of Arora Enterprises, Dayalbandh, Bilaspur (C.G.) – Licence of Group No.24, Sanichari, District, Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

71. Dharmendra Kumar Singh, Nand Lal Singh, House No.31/434, In Front of Arora Enterprises, Dayalbandh, Bilaspur (C.G.) – Licence of Group No.25, Pendra, District – Bilaspur
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

72. Jaggu Yadav, S/o. Dev Charan Yadav, House No.167, Near Forest Naka, Boir Dadar, Chakardhar Nagar, Raigarh – Licence of Group No.6, Malhar, District

– Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

73. Uday Singh, S/o. Ram Chaitra Singh, House No.167, Near Forest Naka, Boir Dadar, Chakardhar Nagar, Raigarh – Licence of Group No.10, Seepat, District – Bilaspur.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

74. Vinod Singh, S/o. Sharda Singh, Jamat Mandir Para, Kawardha (C.G.) – Licence of Group No.3, Guriari.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

75. Rampravesh Singh, S/o. Late Haridwar Singh, C/o. Arvind Sahu, House No.27/126, Vinoba Nagar, Boirdadar, PS Chakradhar Nagar, Raipur (C.G.) – Licence of Group No.4, Raipura.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

76. Dhiraj Kumar Singh, S/o. Suresh Singh, Baya, Raipur (C.G.) – Licence of Group No.6, Pandri.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

77. Ranbir Singh, S/o. Rambilas Singh, In front of Dr. Nigam, Katora Talab, Raipur (C.G.) – Licence of Group No.7, Moudhapara.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

78. Sanjay Singh, S/o. Baijnath Singh, Baya, Raipur (C.G.) – Licence of Group No.8, Narmadapara.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

79. Ranjit Kumar Shukla, S/o. Gherau Shukla, Behind Kandri Club, Bhawna Nagar, PS. Civil Line, Raipur (CG) – Licence of Group No.12, Mana.

Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

80. Vikram Biswal, S/o. Radhanath Biswal, Ganpat Lal Kedia, House No.190, Pratapganj, PS _ Sarangarh, Dist. Raigarh (C.G.) – Licence of Group No.16, Sarsiwa.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

81. Lalita Prasad Gupta, S/o. Karmchand Sao, Rajesh Centre Time, Adarsh Lodge, Sadar Bazar, Baloda Bazar, Raipur (C.G.) – Licence of Group No.18, Bilaigarh.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

82. Akhilesh Yadav, S/o. Dinanath Yadav, Azad Nagar, Godripara, Manendragarh, District, Korea (C.G.) – Licence of Group No.19, Ghatmarwa.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

83. Banwari Shukla, S/o. Awadh Narayan Shukla, Sector – 3, Shankar Nagar, Raipur (C.G.) – Licence of Group No.20, Katgi
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

84. Navneet Pandey, S/o. Balinath Pandey, 5/12. Bazarpara, Baridwar, Tahsil – Sakti, Dist. Janjgir – Champa (C.G.) – Licence of Group No.21, Baya.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

85. Sardha Singh, S/o. Saryu Singh, Near Niharika Talkies, Korba (C.G.) – Licence of Group No.25, Rasera.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

86. Sunil Gupta, S/o. Yamuna Sahu, Bilaigarh, Raipur (C.G.) – Licence of Group No.26, Simga.

Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

87. Ashok Lenka, S/o. Purendra Lenka, House No.14/359, Dabhra, District Janjgir – Champa (C.G.) – Licence of Group No.27, Bhatapara.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

88. Pawan Singh, S/o. Kedar Singh, Near Niharika Talkies, Korba (C.G.) – Licence of Group No.28, Fingeshwar.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

89. Mithlesh Paswan, S/o. Bateshwar Paswan, 10/610, Near Memon Pool, Barrier Chowk, Champa (C.G.) – Licence of Group No.31, Navapara.
Address for serving the notice-C/o The Excise Commissioner, State of Chhattisgarh, Raipur (C.G.)

Present: Shri P. Diwakar, learned Sr. Advocate with Shri P.R. Pdatankar learned counsel for the petitioners.

Shri Prashant Mishra, learned Addl. Advocate General with Shri Utkarsh Verma, learned Dy. G.A., for respondents 1 to 12.

Shri Somnath Verma, learned counsel for respondents 13, 14, 18, 69 and 70.

Shri Prateek Sharma learned counsel for respondents 15, 19 and 21.

Shri V.G. Tamaskar, learned counsel for respondents 23, 24, 25, 26 and 48.

Shri P.K.C. Tiwari, learned Sr. Advocate with Shri Shashibhushan for respondents 41, 47, 60, 82, 84 and 86.

Shri V.R. Tiwari, learned counsel for respondents 27, 28, 54 and 62.

Shri Akhil Mishra and Shri Vivek Shrivastava learned counsel for respondents 34, 49 and 43.

Shri Sanjay K. Agrawal, learned counsel for respondents 31, 42, 61, 66, 68 and 80.

Shri Vishnu Koshta with Shri N.P. Koshta learned counsel for respondents 29 and 63.

Ku. Samta Jain, learned counsel for respondents 51, 52, 53 and 55.

Shri Abhishek Sinha, learned counsel for respondents 20,22, 33, 65 and 87.

Shri Rajiv Shrivastava, learned counsel for respondents 32, 36, 37, 38, 56, 57, 58, 59, 74, 83, 85 and 88.

Shri B.P. Sharma, learned counsel for respondents 67, 76, 77, 78, 81 and 89.

Shri Ali Asgar, learned counsel for respondent No.35.

Shri Rakesh Tiwari, learned counsel for respondents 49, 50 and 73.

Smt. Mallika Bal, learned counsel for respondents 44, 45, 70 and 71.

O R D E R

(Passed on 6th of March, 2006)

The following order of the Court was passed by

S.R. NAYAK, CJ:

The instant writ petition is an off-shoot of the writ proceedings instituted before this Court and subsequently landed before the Hon'ble the Supreme Court culminating in the judgment in **Ashok Lanka and another Vs. Rishi Dixit and others**[1]. On an earlier occasion, one Jitendra Pali had filed Writ Petition No.706 of 2005 as a Public Interest Litigation in this Court. The petitioner herein had also filed Writ Petition No.956 of 2005. Originally, in the said writ petitions, the validity of the changes made in the selection process, namely, from manual to

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1. 2005 AIR SCW 2676

computer was assailed, but, an application for amendment of the writ petition was made on 09/03/2005 wherein it was contended that the selection process adopted by the State was vitiated, *inter alia*, on the premise that no affidavit was filed by the applicants as was mandatorily required by Rule 9 of the Chhattisgarh Excise Settlement of Licences for retail sale of Country/Foreign Liquor Rules, 2002 (for short ' the Rules') as amended with effect from 22/03/2005. The contention raised on behalf of the State after the amendment dated 22/03/2005 before this Court was that Rule 9 of the Rules was directory in nature and in any event, as the said Rule was amended in consonance with the powers of the State regarding retrospective amendment of the Rules, the selection process was not vitiated.

(2) This Court upon analyzing the provisions of the Chhattisgarh Excise Act, 1915 (No. II of 1915) (for short 'the Act') and the Rules framed thereunder was of the opinion that the State was entitled to make the selection of the eligible candidates through computer. This Court, however, opined that the District Level Committees did not make any scrutiny whatsoever to find out as to whether the applicants concerned satisfied the eligibility conditions laid down in Rule 9 or not, as no information was required to be furnished in the format prescribed by the Commissioner of Excise in that behalf. This Court further opined that the disclosure of such information by the applicants even before the submission of applications was necessary so as to enable the authorities to satisfy themselves about the fulfillment of various eligibility conditions specified in Rule 9 of the Rules. In that view of the matter, this Court by its order dated 31.03.2005 disposed of Writ Petition No.956/2005 filed by the petitioner herein directing that a fresh selection be made in terms of

the extant Rules. This Court while rejecting the wider challenge on the Excise Policy, held that the Circular dated 14.02.2005 issued by the Commissioner of Excise was contrary to the Rules as regards eligibility criteria laid down in Rule 9 thereof were dispensed with. This Court also held that the applications filed by the applicants were not properly scrutinized, except the requirement of Rule 9 (c), namely, whether the applicants were back-listed or otherwise not eligible. While holding that the application fees to the extent to 77 crores collected by the State need not be refunded, this Court directed scrutiny of about 2.65 lakhs applications by the respective Districts Level Committees for their satisfaction that all eligibility requirements stand satisfied whereafter only that draw of lottery may take place. This Court, however, for the reasons stated in the judgment although not directed for calling for fresh applications but mandated the State to consider the necessary information required from the applicants by way of affidavits before the candidates are selected for grant of liquor licence.

(3) The State of Chhattisgarh as well as several selected candidates being aggrieved by the above order of this Court preferred appeals to the Supreme Court under Article 136 of the Constitution of India. Shri Ashok Lanka, who was the intervener in the writ petition filed before this Court, also filed an appeal before the Supreme Court, which was registered as Civil Appeal No.3279 of 2005 (arising out of SLP (C) No.11320/2005). By an order dated 08.04.2005, the Supreme Court stayed the operation of the above order of this Court subject to the condition that if the Government desires to award the contract as an interim arrangement to the successful bidders, it shall do so only after obtaining the necessary approval of the Committee already constituted for

consideration of the applications. The said order was communicated to the State Government on 09.04.2005. The applications of the selected candidates were scrutinized on 10.04.2005 and 11.04.2005 and licences were granted to the so-called successful bidders on 11.04.2005 and 12.04.2005.

(4) The Supreme Court disposed of all those appeals by its common judgment dated 11.05.2005 in **Ashok Lanka**[1] (supra). The Supreme Court has affirmed the judgment of this Court insofar as the mandatory nature of the statutory rules is concerned and its violation committed by the State Authorities. The Supreme Court while disposing of the appeals has issued certain direction to the State Government and its authorities. Paragraph 92 of the judgment contains the directions which read as follows:

i) The Member-Secretary shall scrutinize all the applications of the successful candidates afresh and prepare a summary report within one week from date.

ii) Irrespective of the format prescribed by the Commissioner of Excise, each of the selected candidates must file an appropriate affidavit, which would be in strict compliance of the requirement of Rule 9.

iii) Such affidavit must be filed before the respective Committees within one week from date, the contents whereof would be verified in terms of Order 6, Rule 15 of the Civil Procedure Code. The said affidavits shall be scrutinized by the Committee so as to enable them to arrive at a finding as to whether the applicants fulfill the eligibility criteria and are otherwise suitable for grant of licence under the Act and the Rules.

iv) The writ petitioners or any other person in the locality may file appropriate applications before the said Committee with a view to show that the selected candidates do not fulfill the eligibility criteria or are debarred or are otherwise unsuitable from obtaining a licence under the Act.

v) Such objections may also be filed with two weeks from date. The Committee may consider the said objections and, if necessary, may call for further or better particulars from the selected candidates so as to satisfy themselves about their eligibility etc.

vi) The respective District Level Committees shall strictly verify and scrutinize the affidavits as also other documents furnished by the said applicants so as to arrive at a decision that the statutory requirements have been complied with upon application of their mind.

vii) The members of the Committee are made personally liable to see that all statutory requirements are complied with. They would strictly apply the statutory provisions as regard eligibility and suitability of the candidates.

viii) The aforementioned exercise by the Committee should be completed within one month. In the event, any affidavit filed by a selected candidate either pursuant to this order or file earlier in the format prescribed by the Commissioner of Excise is found to be incorrect, strict action in accordance with law shall be taken against him.

ix) The Superintendent of Police of each districts within whose jurisdiction the selected candidates ordinarily reside shall verify the antecedents and other relevant

particulars of the selected candidates vis-a-vis their eligibility/suitability to obtain a licence and submit a report to the Committee by 12.06.2005 which would be strictly in terms of sub-rule (3) of Rule 9. While issuing such a certificate in favour of the selected candidates by 12.06.2005, he shall also file a copy of report before the Committee.

x) We direct the Chief Secretary of the State and Commissioner of Excise to act strictly in accordance with law and oversee the functioning of the Scrutiny Committees.

xi) If the State and the Commissioner of Excise come across misconduct on the part of any of the officers including the members of the Committee, strict action must be taken against the concerned officer.

xii) The selected candidates in the meanwhile may carry on the trade in liquor pursuant to the licence granted in their favour but the same shall be subject to this order as also the decision of the Scrutiny Committee.

(5) This writ petition is filed by Rishi Dixit, the very petitioner who had earlier filed Writ Petition No.956 of 2005 in this Court, and six others. Petitioner No.1, Rishi Dixit, is a trader in liquor and petitioners 2 to 7 are the objectors to the licences granted to the contesting private respondents. The petitioners complain that notwithstanding the clear directions issued by the Supreme Court to the District Level Committees, the Chief Secretary and the Excise Commissioner of the State to strictly follow the rules in regard to the conditions of eligibility and to hold enquiry as to the eligibility of the candidates, respondents 1 to 12 have again committed serious breach of mandatory Rules 9 & 11 of the Rules and the directions issued by the Supreme Court.

(6) The petitioner in the premise of the above allegations have sought for intervention of this Court and prayed for the following relief(s):

7.1 That, this Hon'ble Court may be pleased to send for the entire records from the respondents and district committees in regard to the compliance of the directions of the Hon'ble Supreme Court and observance of the statutory rules and all such other relevant and complete record as are in their possession leading to the affirmation of the selection of the select candidates.

7.2 The respondents 1 to 12 be directed to satisfy the Hon'ble Court regarding the compliance of the mandatory directions as given by the Hon'ble Apex Court in the case of Ashok Lanka Vs. Rishi Dikshit.

7.3 That, the Hon'ble Court may be pleased to issue a writ in the nature of mandamus quashing and annulling the entire selection of respondents 13 to 89 and also quashing the temporary licences by issuing a writ in the nature of certiorari.

7.4 That, the Hon'ble Court may be pleased to issue a writ in the nature of mandamus commanding the respondents 1 to 12 to make selections strictly in accordance with law, rules and the directions of the Hon'ble Supreme Court, afresh.

7.5 That the contempt proceeding be initiated against the respondents 2 to 12 for the non-compliance of the order of the Hon'ble Apex Court.

7.6 That the respondents be directed to award exemplary costs to the petitioners.

Any other relief may also be granted to the petitioners which this Hon'ble court feels fit in the facts and circumstances of the case.

8. INTERIM RELIEF:

It is respectfully prayed by the petitioners that till the final decision of the present writ petition, the respondents 13 to 89 be restrained from running their liquor shops/groups. The respondents 1 to 12 be directed to immediately suspend the license of respondent no. 13 to 89. They be further directed to allot the shops of respondents 13 to 89 to other persons after following the due procedure of law.

(7) This writ petition was filed on 28.06.2005. This Court issued notice re-rule on 05.08.2005. Since there are large number of respondents including private respondents, considerable time was consumed for service of notice on the respondents. This Court after hearing all the parties issued rule *nisi* on 04.01.2006 and finally granted three weeks time to respondents to file their returns/statements of objection. On 13.02.2006 at the request of Shri Prashant Mishra, learned Addl. Advocate General, the time was extended by a week to file return on behalf of the State Government and its authorities. The same day, the Court considering an application filed by the petitioners to hear this writ petition out of turn on the ground that the licences granted to the contesting private respondents would come to an end with the expiry of the excise year on 31.03.2006, directed listing of the writ petition for final hearing and disposal on 27.02.2006.

(8) The writ petition is opposed by the official respondents 1 to 12 by filing return/statement of objections. Among the contesting private respondents return/statement of objection is filed only on behalf of the

respondents 20, 22, 33, 65 and 85, respondents 31, 61, 66, 68 and 80, and respondents 13, 14, 18, 69 and 79. The remaining respondents have not filed returns/statements of objection.

(9) In the return, filed by the official respondents 1 to 12 while denying the allegations of the petitioners, it is stated thus: That after the Supreme Court delivered the judgment on 11.05.2005, the Excise Commissioner issued instructions on 14.05.2005 (Annexure–R/2) addressed to all the Collectors/Asst. Commissioner (Excise)/District Excise Officers to forthwith comply with the directions of the Supreme Court and to convene meeting of District Level Committees immediately after scrutinizing applications and verifying the eligibility conditions by obtaining affidavits in prescribed proforma from each of the successful applicants who were working as temporary licensees on the said date by virtue of the interim order granted by the Supreme Court on 08.04.2005. The Excise Commissioner vide his letter dated 16.05.2005 (Annexure-R/3) requested the Director General of Police, Chhattisgarh State to submit character verification reports of the successful applicants within the time allowed by the Supreme Court, that is to say, by 12th June 2005. On 16.05.2005, the Excise Commissioner convened a meeting of the Asst. Commissioners (Excise) and District Excise Officers for instructing them to comply with the directions of the Supreme Court within the prescribed time. By letter dated 26.05.2005 (Annexure-R/4), the Excise Commissioner requested the Superintendents of Police of the concerned district of other States in those cases where the successful applicants have shown their permanent residences, to send report about the antecedents of the selected candidates and those reports were received by the Excise Officers of the concerned districts. On 26.05.2005, the

Chief Secretary, Government of Chhattisgarh, convened a meeting of the Collectors, Asst. Commissioners (Excise), District Excise Officers through video conferencing and took stock of stage of compliance of the directions of the Supreme Court and he was satisfied with the compliance reported by the officers. Vide communication dated 01.06.2005 (Annexure-R/6), the Superintendent of Police of each district was directed to send character verification report of the successful applicants directly to the District Level Committee. On 06.06.2005, the Chief Secretary to the Government again interacted with the Collectors, Asst. Commissioners (Excise) and District Excise Officers by video conferencing with regard to the compliance of the directions issued by the Supreme Court. The Chief Secretary to the Government by his letter dated 06.06.2005 requested the Chief Secretaries of other States to send character verification reports of the selected candidates residing in their States by 12th June 2005. The Director General of Police, Chhattisgarh State was again requested by the Excise Commissioner on 07.06.2005 vide letter (Annexure-R/8) to direct all the Superintendents of Police to submit character verification certificates by 12th June 2005. Accordingly, character verification reports were received in the office of the District Level Committees by 12th June 2005. The compliance report was submitted to the Chief Secretary of the Government on 13.06.2005. In sum and substance, the official respondents claim that all the directions issued by the Supreme Court have been substantially complied with and the allegations leveled by the petitioners are false and baseless. In the returns filed by other contesting private respondents, the impugned actions of respondents 1 to 12 are defended on the lines similar to the ones put forth by the official respondents.

(10) The writ petition was heard for final hearing on 27th and 28th of February 2006. The arguments of Shri P. Diwakar, learned Senior Counsel for the petitioners run as follows: Notwithstanding the clear directions issued by the Hon'ble Supreme Court to the District Level Committees, the Chief Secretary to the Govt. of Chhattisgarh State and the Excise Commissioner of the State to strictly follow the Rules in regard to the conditions of eligibility and to hold enquiry as to the eligibility of the candidates, respondents 1 to 12 have again committed serious breach of mandatory Rules 9 and 11 of the Rules as well as the directions issued by the Hon'ble Supreme Court. Direction No. (iii) is not complied with inasmuch as the affidavits of the selected candidates are not in strict compliance of the requirement of Rule 9 of the Rules. Neither the certificate as required under Rule 9 has been given nor the scrutiny has been done by the Committee in a proper manner to ensure the fulfillment of the eligibility criteria. As permitted in Clauses (iv) and (v), petitioner No.1 Rishi Dikshit filed a comprehensive objection (Annexure-P/7) before the District Excise Officer of every district giving the details of fake persons and bogus/incomplete addresses of the so-called selected candidates and copy of the said objection was also forwarded to the Commissioner of Excise and the Chief Secretary of the State Government with a request for a detailed enquiry and scrutiny as per the direction of the Hon'ble Supreme Court. Petitioner No.2 Rajesh Parihar also filed statement of objection (Anexure-P/12) before the District Excise Officer, Mahasamund on 25/05/2005 in respect of the five groups of Mahasamund, namely, Group Nos.3, 5, 6, 7 and 8 contending that no such persons are residing in the given addresses and fake names have been shown. Petitioner No.5 Manharan Yadav also filed statement of

objection (Annexure-P/16) on 25/05/2005. In response to Annexure-P/16, the District Excise Officer vide letter (Annexure-P/17) dated 27/05/2005 directed petitioner No.5 to appear before the Collector, Mahasamund on 31/05/2005 with proof to prove his allegations. Petitioner No.5 submitted his reply (Annexure-P/18) to Annexure-P/17. Petitioner No.4 Tarunesh Parihar also filed his statement of objection (Annexure-P/19) on 25/05/2005, but, his objection has not been entertained at all. Petitioner No.3 Natraj Sharma also filed his statement of objection (Annexure-P/20) on 25/05/2005. The District Collector Bilaspur, the Excise Department and the Committee did not consider the objections of petitioner No.3 properly as directed by the Supreme Court. Petitioner No.4 also filed statement of objection in respect of Bilaspur. In respect of Bilaspur, Dinesh Singh, Dilharan Yadav, Manharan Yadav and Anupam Raghav had also filed statements of objection (Annexure-P/21). The objections were also raised with regard to Dhamtari, Durg, Raigarh and other districts, but, the Chief Secretary of the State Government, Commissioner of Excise and the District Collectors have not at all considered those objections in the way the Hon'ble Supreme Court directed them to consider. Shri P. Diwakar would point out that although the petitioners and other objectors pointed out that as directed by the Hon'ble Supreme Court, it is the duty of the Government and the Committee to scrutinize each individual case to find out whether the selected candidates have complied with the mandatory provisions of Rules 9 and 11 of the Rules and it is not for the objectors to prove their allegations before them, the Government and the Committees wrongly placed the onus on the objectors and the objectors were asked to prove their allegations, quite often negatives. For example, if the objector has raised the objection that

an X – selected candidate is not a resident of B-place, the Committee asked the objector to prove that X is not the resident of B-place. In other words, the objector was called upon to prove the negative. Shri Diwakar would submit that in all fairness and in view of the directions issued by the Hon'ble Supreme Court, the Committees ought to have honestly considered the objections and found out whether what is stated in the statements of objection are true or incorrect. Shri Diwakar drawing out attention to Annexure-P/26, the purported statement of petitioner No.3 dated 31.05.2005, would submit that the District Excise Officer compelled petitioner No.3 to sign on the dotted line. Shri Diwakar would also take us through what is stated in great elaborations by the petitioners in the memorandum of the writ petition as well as rejoinder field by the petitioners to the return of the respondents 1 to 12 to highlight numerous commissions and omissions committed by the Committees in screening the affidavits filed by the selected candidates and verifying statements made therein by the selected candidates in the premise of the provisions of Rules 9 and 11 of the Rules. Shri Diwakar would contend that respondents 1 to 12 blatantly and deliberately conducted perfunctory enquiry to favour the selected candidates and, therefore, the licences granted to the selected candidates could not be sustained in law and if they are sustained that would result in public mischief and injury to the public interest.

(11) Shri Prashant Mishra learned Additional Advocate General appearing for the State Government and its authorities – respondents 1 to 12 would firstly contend that as per direction (iv) of the Supreme Court, the burden to prove that the selected candidates do not fulfil the eligibility criteria or are debarred or are otherwise unsuitable from obtaining licence

under the Act, is on the objectors and therefore, there was nothing wrong on the part of the respondents 1 to 12 in insisting that the objectors should produce evidence to substantiate the allegations made by them in their statements of objection. Learned Additional Advocate General would submit that the petitioners and other objectors have utterly failed to substantiate the allegations made against the selected candidates with regard to the eligibility criteria. Learned Additional Advocate General would draw our attention to what is stated in the return of the respondents 1 to 12 and submit that after the judgment of the Supreme Court, the State Government and its authorities have taken all steps as directed by the Supreme Court to verify the eligibility criteria of the selected candidates and after thorough scrutiny of the case of the individual selected candidates and satisfying themselves that they possess the prescribed eligibility criteria, licences are granted. Learned Additional Advocate General would conclude by contending that the petitioners have failed to make out any case warranting interference with the licences granted to the selected candidates by this Court under Article 226 of the Constitution.

(12) Shri P.K.C. Tiwari learned Senior Counsel appearing for respondents 41, 47, 60, 82, 84, 86 would submit that no specific allegations are made by the petitioners – objectors against his clients except respondent N0.60. Shri Tiwari would maintain that his clients have fulfilled all eligibility criteria for grant of licence. Shri Tiwari would further contend that the Hindi version of sub-Rule (3) of Rule 9 of the Rules do not prescribe that even family members of the applicant for the licence should possess good moral character and have no criminal background or criminal record and such a prescription is found only in English version of sub-Rule (3) of Rule 9, and since there is difference between the two

versions, the Hindi version of the rule should prevail. Shri Tiwari would alternatively contend that bad moral character or criminal background or criminal record of the family members of the applicant for the licence cannot be a valid and good ground to deny the licence to such applicant if he possesses good moral character and has no criminal background or criminal record.

(13) Shri B.P. Sharma learned counsel for respondents 67, 76, 77, 78, 81 and 89 would contend that the liberty granted by the Supreme Court to the petitioners to file the applications before the Committee to show that the selected candidates do not fulfill the eligibility criteria does not entitle hem to prefer the instant writ petition. According to Shri B.P. Sharma, the petitioner can only seek clarifications or appropriate orders in the earlier writ proceedings, that is to say, in Writ Petition No.956 of 2005 disposed of by the Division Bench of this Court on 31.03.2005, that too, after taking appropriate steps to reopen the said writ petition. Shri Sharma would contend that the prayer contained in para 7.5 of the writ petition to initiate contempt proceedings against respondents 2 to 12 for the non-compliance of the orders of the Supreme Court is misconceived and cannot be granted even if the Court were to hold that the allegations made against respondents 1 to 12 by the petitioners are substantiated.

(14) Shri V.G. Tamaskar learned counsel for respondents 23, 24, 25, 26 and 48 would contend that the affidavit filed in support of the writ petition is not in order. He would contend that in the affidavit, petitioner No.1 does not state that which averments in the writ petition are based on personal knowledge and which averments are based on record and

information received by him and, therefore, the petition averments cannot be taken into account for decision-making.

(15) Shri Sanjay K. Agrawal learned counsel for respondents 31, 42, 61, 66, 68 and 80 would submit that the petitioners have not made out any ground to issue writ of *certiorari* or writ of *mandamus*.

(16) Shri Abhishek Sinha learnred counsel for respondents 20, 22, 33, 65 and 67 would submit that the petitioners and other objectors have not produced any evidence to show that the selected candidates do not possess the prescribed eligibility criteria. He would submit that the records placed before the Court by the respondents 1 to 12 would go to show that respondents 1 to 12 have strictly complied with all formalities before granting licence to the selected candidates as directed by the Supreme Court. Shri Abhishek Sinha would also contend that only the petitioners who are residents of Raipur, have objected to grant of licence in the entire State and that shows lack of *bona fides* on their part. He would submit that the omnibus relief claimed by the petitioners could not be granted.

(17) Shri Rajiv Shrivastava learned counsel for respondents 16, 32, 36, 37, 38, 56, 57, 58, 59, 74, 83, 85 and 88 would submit that no specific allegations are made against his clients except respondent No.59. Meeting the contention of Shri P. Diwakar learned Senior Counsel that in the case of Mahasamund district, the District Collector himself should have conducted the enquiry as directed by the Supreme Court and not the Additional Collector of Mahasamund as reflected by Annexure-P/15, Shri Rajiv Shrivastava would contend that the Collector includes Additional Collector as defined under Section 16 of the Madhya Pradesh Land

Revenue Code, 1959 and also as per the decision of the Madhya Pradesh High Court in the case of **Kaushal Prasad Kashyap Vs. State of M.P. and others**[2]. Referring to the difference between Hindi version and English version of sub-Rule (3) of Rule 9 of the Rules, Shri Rajiv Shrivastava would contend that as per Section 3 of the M.P. Official Language Act, 1957 Hindi is the official language of the State and therefore what is stated in Hindi version of sub-Rule (3) of Rule 9 of the Rules should be taken to be a correct version. In support of his submission learned counsel would cite a judgment of the Madhya Pradesh High Court in **Ram Lakhan Rawat Vs. State of M.P. and others**[3] and **Satyabhan Singh Jadon Vs. State of Madhya Pradesh and another**[4].

(18) Shri Somnath Verma learned counsel for respondents 13, 14, 18, 69 and 70, Shri Prateek Sharma learned counsel for respondents 15, 19 and 21, Shri Vivek Ranjan Tiwari learned counsel for respondents 27, 28, 54, 62, Shri Akhil Mishra learned counsel for respondents 34, 43, 49, Shri Vishnu Koshta learned counsel for respondents 29 and 63, Ku. Samta Jain learned counsel for respondents 51, 52, 53 and 55, Shri Ali Asgar learned counsel for respondent No.35, Shri Rakesh Tiwari learned counsel for respondents 49, 50 and 73 and Smt. Mallika Bal learned counsel for respondents 44, 45, 70 and 71 have adopted the arguments of Shri Prashant Mishra learned Additional Advocate General.

(19) In reply, Shri P. Diwakar learned Senior Counsel appearing

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2. 1999 (1) MPLJ 455.
3. 2000 (2) MPLJ 176.
4. 1997 (2) MPLJ 487

for the petitioners placing reliance on the judgments of the Division Bench of the Madhya Pradesh High Court in **Messrs. Govindram Ramprasad Vs. Assessing Authority (Sales Tax), and another**[5], Full Bench judgment of the Allahabad High Court in **Jaswant Sugar Mills Ltd., Meerut Vs. The Presiding Officer, Industrial Tribunal (III) U.P., Allahabad and others**[6], and a five-Judge Bench of the Allahabad High Court in **Smt. Ram Rati and others Vs. Gram Samaj, Jehwa and others**[7] and the judgment of the Madhya Pradesh High Court in **Jethanand Vs. Nagar Palika, Mandsaur**[8] would contend that if there is difference between Hindi and English version, English version should prevail and the judgments cited by the learned counsel for the contesting respondents to the contrary are not good law. Alternatively, Shri P. Diwakar would contend that the directions issued by the Hon'ble Supreme Court are based on English version of sub-Rule (3) of Rule 9 of the Rules and not Hindi version and, therefore, if the stand of the State now urged before the Court is the correct stand, the Government should have sought modification of the directions before the Supreme Court itself. In order to substantiate his submission that the directions issued by the Hon'ble Supreme Court are based on English version of sub-Rule (3) of Rule 9, Shri Diwakar drew our attention to Rule 9 extracted by the Division Bench of this Court in its judgment and paragraphs 9 and 49 of the judgment of the Supreme Court in the case of **Ashok Lanka**[1] (supra).

(20) Having heard the learned counsel for the parties, we are of

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5. AIR 1958 MP 16
6. AIR 1962 All. 240
7. AIR 1974 All. 106
8. 1980 JLJ 494

the considered opinion that respondents 1 to 12 have not complied with the directions issued by the Supreme Court in the case of **Ashok Lanka and another Vs. Rishi Dixit and others**[1] (supra) before granting licences to the contesting private respondents. The records placed before the Court would go to show that the Police Authorities have not verified the criminal background or criminal record of the family members of the selected candidates in terms of sub-Rule (3) of Rule 9 of the Rules. At page No.439 of the return of respondents 1 to 12, the certificate in respect of one Ram Prakash Jaiswal is produced. As per this certificate, the said Ram Prakash Jaiswal is residing at Parshuram Ward, Tahsil Bhatapara , district Raipur for the last eight years. The said certificate is issued by a Councillor of Municipal Council, Bhatapara, Ward No.6, and it is needless to state that he has no legal authority to issue such certificate. The residential certificate has to be issued by the prescribed revenue authority. There is no controversy between the parties in that regard. At page No.443 of the return, in respect of Raju Dhruv, the certificate is issued by Up-Sarpanch, Gram Panchayat, Kanki. Here again that person has no legal authority to issue such certificate. At page 465 of the return, the certificate issued by the Councillor of Ward No.31, Indira Nagar, Bilaspur in respect of Naval Kishore Singh is produced. At page 469 of the return, the certificate issued by one Kacharu Sahu in respect of Govind Tiwari is produced. Similar is the certificate issued at page 470 of the return. At page 480 of the return, the certificate issued in respect of Khilawan Prasad Manikpuri by Up-Sarpanch, Gram Panchayat, Kanki is produced. At page 485 of the return, a certificate is produced, but, it is not clear as to who is the author of the certificate. At page 489 of the return, the residential certificate issued in favour of one Vijay Singh is produced, but,

here again, the authority of the author is not clear. At page 490 of the return, the certificate issued by a Councillor in favour of one Mukesh Singh is produced. At page 494 of the return, the certificate issued by the Sarpanch of Gram Panchayat, Parsada in favour of Ashok Sahu is produced. At page 498 of the return, the certificate issued by the Councillor in favour of Ramesh Yadav is produced. Similarly, at page 500 of the return, the certificate by a Councillor in favour of Ramakant Gupta is produced. All the above certificates are issued by incompetent and unauthorized persons/officers of various local bodies and on the basis of such certificates, respondents 1 to 12 ought not to have satisfied themselves with the eligibilities of the selected candidates.

(21) Furthermore, it needs to be noticed that at page 559 of the return, in respect of one Satyendra Singh who has been awarded Group No.4, Bijapur, district Raigarh, a character certificate is issued by the Police Authority showing the address of the said Satyendra Singh as village Karhara, Post Jaipur, Police Station Mali, district Aurangabad, whereas at page 562 of the return, in the letter addressed to the Collector, Raigarh by the Superintendent of Police, Bilaspur, he is stated to be a permanent resident of village Mali, Police Station Nabinagar, Aurangabad. Quite curiously at page 563 of the return, a certificate issued in favour of Satyendra Singh from Bilaspur is produced certifying that he has no criminal record showing his address at village Mali, Police Station Nabinagar, Aurangabad and at page 560 of the return it has been stated that Satyendra Singh has been residing in Bilaspur for the last one year. At page 574 of the return, the certificate issued by the Tahsildar, Bilaspur in favour of one Abhay Singh is produced and this certificate does not bear any revenue case number or the seal of the office of the Tahsildar

which are mandatory requirements. At page 575 of the return, the certificate issued by one Dr. H.S. Hura, a private practitioner, certifying the age of Satyendra Singh as 37 years and the age of Abhay Singh as 27 years, is produced. At page 585 of the return, the character certificate issued by the Police Station Mali, district Aurangabad stating that one Santosh Kumar is the resident of Raigarh for the last two years and doing liquor business is produced. At page 588 of the return, the certificate issued by the Naib Tahsildar, Sarangarh in favour of one Santosh Kumar Singh is produced certifying that Santosh Kumar Singh is residing at Sarangarh for the last three years. Thus, it could be seen that there are discrepancies in the certificates issued by Police Station Mali and Naib Tahsildar. At page 595 of the return, the residential certificate issued in favour of one Arvind Singh by the Sarpanch, Gram Panchayat, Batha is produced without mentioning the revenue case number or the authority of the Sarpanch to issue such certificate. At page 596 of the return, the age certificate has been issued by Dr. N.L. Upadhyay, a Dental Surgeon, in favour of Arvind Singh. This certificates produced before the Court would show that they are issued by Dental Surgeon as well as Orthopedic Surgeons. At page 595 of the return, a certificate is produced certifying that one Arvind Singh is residing at Baya Kasdol, district Raipur. At page 693 of the return, it is stated that the same person is residing somewhere else for the last two years. Thus, one can see apparent discrepancies in the two certificates. At page 685 of the return, the address of Shri Anil Pal is given as village Jhapla, P.O. Jhapla, district Palamou (Jharkhand), whereas at page 688 of the return, in the police verification report, he is shown to be a resident of village Bankat, Police Station Husainabad, district Palamou (Jharkhand). Here again, both the documents cannot be

correct. At page 745 of the return, a letter dated 07/06/2005 addressed to the Superintendent of Police, Korea by the Station House Officer, Chirmiri is produced. In the said document, it is stated that Pradeep Gupta, the licensee, is not an independent person and is working as an employee of a liquor contractor Amolak Singh Bhatia, by name. The said Pradeep Gupta is granted licence of Group No.13 for Kharsia, district Raigarh. In the above document, it is also stated that the financial condition of Shri Pradeep Gupta is not such where he could take the financial burden of liquor trade. Despite this report submitted by the Station House Officer, Chirmiri, the licence was granted to Shri Pradeep Gupta. At page 751 of the return, the certificate of residence issued by the Councillor, Municipal Council, Chirmiri in his letter pad is produced. At page 805 of the return, the letter dated 07/06/2005 of the Superintendent of Police Station Aurangabad to the Collector (Excise), Mahasamund is produced. As per this letter, the licensee Anil Kumar Gupta is not residing within the territorial jurisdiction of the said police station. Nevertheless, licence has been granted to him. When the above report of the Station House Officer, Chirmiri was received, it appears, to overcome the same, another report from the Police of Aurangabad stating that the said Anil Kumar Gupta is a resident of village Ibrahimpur, Police Station Mufsil, district Aurangabad was procured and the same is produced at page 809 of the return. At page 1521 of the return, which is a part of the note-sheet, in Column No.8, it is stated that father of the licensee is undergoing life imprisonment. Furthermore, it needs to be noticed that the certificates produced in favour of licensees at page 1715, 1733, 1744, 1745, 1757 of the return are issued by the Councillors and they were acted upon by the respondents.

(22) Thus, it is quite clear that respondents 1 to 12 have failed to carry out the directions issued by the Supreme Court in the manner expected of them and in conformity with the mandatory Rules 9 and 11 of the Rules. It needs to be noticed that the above noted very serious and fatal lapses are sought to be defended by the respondents 1 to 12 by filing additional return dated 23.02.2006. Although it is dated 23.02.2006, it was filed in the Court itself on 27.02.2006 when the writ petition was taken up for final hearing and disposal. This so-called additional statement is nothing but a rejoinder to the rejoinder of the writ petitions. In the first place, such pleading is impermissible without the permission of the Court. Secondly, it needs to be noticed that in the additional return, untenable defences are put forth to cover-up the serious lapses committed by the respondents 1 to 12. For example, in paragraph 5, it is stated that the allegations made in paragraph 5 of the rejoinder of the petitioners with regard to Ram Prakash Jaiswal should not be examined by the Court, because, he is not a respondent in the writ petition. Having said it, it is stated that the said Ram Prakash Jaiswal has produced driving licence in proof of his residence, but, quite curiously that driving licence is not produced before the Court. Similarly, meeting the allegations made by the petitioners in paragraph 6 of the rejoinder, it is stated that since M/s. Khilawan Prasad Manikpuri, Vijay Singh, Mukesh Singh Ashok Sahu, Ramesh Yadav and Ramakant Gupta are not arrayed as respondents in the writ petition, the allegations leveled against them cannot be examined. The above defence is strange indeed. Respondents 1 to 12 have completely lost sight of the fact that the allegations are leveled against respondents 1 to 12 with regard to the manner and method adopted by them in verification of eligibility criteria of those persons. It needs to be

noticed that respondents 1 to 12 have not denied the allegations made in paragraph 6 of the rejoinder of the petitioners. Similarly, the defences set out in most of the paragraphs of additional return are totally untenable.

(23) A serious flaw in the enquiry conducted by the respondents 1 to 12 needs to be noticed at this stage itself. The several directions issued by the Hon'ble Supreme Court would not leave any doubt in anybody's mind that it is for the respondents 1 to 12 to take every reasonable and possible step to scrutinize the documents, information and particulars furnished by the applicants for licences to satisfy themselves whether they do possess the prescribed eligibilities and conditions. But, quite curiously, respondents 1 to 12 shifted the burden on the objectors like the petitioners to prove that the applicants for licences do not possess the prescribed eligibilities. It is indeed strange enough for the respondents 1 to 12 to demand that the objectors should prove negative facts by producing evidence. If the objection is that an applicant for licence is not a resident of a particular place, how can the objector produce proof to establish that fact. It is for the scrutinizing Committee or the enquiry officer to ascertain whether such applicant is residing at the address given by him in the application. The responsibility/duty cast on the statutory authorities was unfortunately sought to be placed on the objectors and thereby the respondents 1 to 12 have committed very serious flaw in the enquiry thereby vitiating the same. In this regard, it is necessary to note that in respect of Raigarh district, petitioner No.3 filed objection before the District Excise Officer contending that one Abhay Singh S/o Laxmi Singh who has been selected for the Group/Shop 'Godam', but, there is no person called Abhay Singh in the said area. According to the third respondent, Abhay Singh is a fake name. Along with that objection, the

third petitioner enclosed a chart giving the details of other fake persons also. In response to the above letter of the third petitioner, on 26.05.2005 the office of the District Excise Officer, Raigarh directed the third petitioner and others to submit the proof in respect of the allegations made by them and they were directed to appear before the District Excise Officer on 31/05/2005. When that letter was received by the third petitioner, it was brought to the notice of the District Excise Officer that as per the direction of the Hon'ble Supreme Court in **Ashok Lanka and another Vs. Rishi Dixit and others**[1] (supra), it is for the Excise Authorities to scrutinize the correctness of the information furnished by the applicants for licence after conducting necessary enquiry and he should not be asked to prove a negative thing. On 31/05/2005 when the third petitioner appeared, according to him, he was compelled by the District Excise Officer, Raigarh to sign a typed statement which was already prepared by the District Excise Officer after receipt of the objection of the third petitioner. A bare look of the statement so prepared would convince anybody that such a statement was prepared by the District Excise Officer, Raigarh himself and the signature of petitioner No.3 was obtained on the dotted line. The objection raised by petitioner No.3 has been rejected on the basis of such statement. It further needs to be noticed that not only petitioner No.3 was asked to produce proof in support of the allegations made by him but similar method was followed in the case of petitioner No.4 and other objectors also. On 26.05.2005, petitioner No.4 objector was asked to give the documentary proof vide Annexure-P/13 and in response to the above letter, petitioner No.4 submitted his reply requesting the authority to make a suitable enquiry instead of asking him to produce evidence to prove a negative fact. Here again, on 31.05.2005 when the petitioner No.4

appeared before the authority, his signature was obtained on already prepared statement.

(24) The petitioners have produced a chart, marked as Annexure-P/33, to show that in what manner the licences have been issued. It shows that common address is given for number of licensees. For example, in the address 15/262, Chandaniepara, Janjgir, District Janjgir-Champa, there are as many as five licensees of Raigarh, Surguja, Mahasamund and Bilaspur. There is no need for us to duplicate the examples. Such things could be pointed out in case of Bilaspur, Raigarh and Raipur district also. The petitioner has also filed another chart as Annexure-P/34, which shows the incomplete address of the number of selected candidates. In this chart, the so-called licensee Arvind who has been awarded the licence of Group No.5 (Sahdeopali) Raigarh district has given his address as resident of Raipur (CG) which is the capital city of the Chhattisgarh State. According to the respondents authorities, this address is sufficient and that is why they did not think it proper to make proper enquiry regarding the residence and the moral character, criminal record of the said Arvind. In the same chart, at Sr. No.5, Shri Onkar Das has been granted licence for Group No.7 and he is stated to be a resident of Saja, which is a Assembly Constituency and lakhs of people are residing in that Constituency, but, according to the respondents authorities that address is also enough. The petitioners have set out many such examples and there is no need for us to duplicate such examples to burden the judgment.

(25) In the premise of the above fact-finding, it needs to be noticed that the Apex Court in the case of **Ashok Lanka and another Vs.**

Rishi Dixit and others[1] (supra) having considered the mandatory requirements of Rule 9 and Rule 11 of the Rules in paragraphs 49 and 50 of the judgment in great elaboration and the manner and method adopted by the respondents 1 to 12 in granting the licences deprecated the conduct of the respondents – the statutory authorities. In paragraph 72 of the judgment, the Supreme Court has observed that, even in the notice, the selected candidates had not been asked to submit affidavits in the prescribed format. The Supreme Court further having appreciated the charts produced by the respondents therein, in paragraph 17 of the judgment, has held that from perusal of the charts it would appear that the different persons belonging to different communities had filed different applications showing the same address and that even persons having the same name had filed more than one application. What the Hon'ble Supreme Court observed in paragraph 75 of the judgment is quite apposite to be noted which reads as follows:

> **"75.** Although we do not intend to put a seal of finality on the said issue, we are constrained to observe that having regard to the actions of the statutory functionaries, the entire exercise of the scrutiny as regard ascertainment of the eligibility of the candidates vis-à-vis selection process is required to be undertaken again by the Selection Committee. Furthermore, this Court is entitled to take into consideration subsequent events so as to do the complete justice to the parties. *(See Board of Control for cricket, India & Another V. Netaji Cricket Club & others (2005 (1) SCALE 121).* When this Court passed an interim order it was expected that the statutory requirements therefore, shall be complied with. Even if Rule 9 is held to be directory, substantial compliance

thereof was necessary. A mandatory statute requires strict compliance whereas a directory statute requires substantial compliance. Even if a statute is directory, the State cannot say that the requirements contained therein do not envisage compliance thereof. The authorities of the State cannot raise a plea that they would not even notice the inherent defects contained in the application. They could not proceed on a presupposition, for which there is no legal sanction, that contents of the affidavit would be correct. No summary report required to be prepared by the Member-Secretary for its placement before the Committee appears to have not been prepared. The Rules postulate that each and every application must be examined carefully. Mere fact that a large number of applications have been filed, as a result whereof the State had been able to obtain crores and crores of rupees by itself did not entitle the State to dispense with the statutory requirements. The application fees were not meant to be utilized for the purpose of earning revenue but to meet the administrative charges required therefor. Application fees cannot be equated with tax."

(26) In the context of the above findings and observations of the Supreme Court, we have to decide the question whether the respondents 1 to 12 have complied with the directions of the Supreme Court contained in paragraph 92 of the judgment strictly and honestly. The rule-position referred to and considered by the Supreme Court in paragraphs 49 and 50 of the judgment would, in unmistakable terms, show that the respondents statutory authorities are duty bound to scrutinize eligibility conditions of an applicant. In that view of the matter, it was totally wrong on the part of the

respondents authorities to demand from the petitioners and other objectors to prove the negatives. It is not as if the is statutory authorities are at liberty to grant licence to any person regardless of the fact that whether such person fulfils eligibility criteria or not if there are no objections from anyone to such grant. The statutory authority being the donee of the statutory power is expected to exercise its power in parting with the largesse of the State in the best public interest and adhering to and complying with all the norms and procedure prescribed by the statute. Departure from the mandatory provisions vitiates the action of the donee of the statutory power. We are fully satisfied that the respondents 1 to 12 have failed to comply with the directions issued by the Hon'ble Supreme Court in para 92 of the judgment in **Ashok Lanka and another Vs. Rishi Dixit and others**[1] (supra), and they, in violation of the mandatory provisions of Rules 9 and 11 of the Rules, have granted the licences by adopting eye-wash methods and conducting perfunctory enquiries. In that view of the matter, the licences granted in favour of the respondents 13 to 89 cannot be sustained.

(27) In view of our above finding, there is no need to consider and decide certain points argued before us, such as, whether the amended Rule 9 (3) of the Rules would require verification of the moral character or criminal background or criminal record of the family members of an applicant for licence, whether Collector includes Additional Collector.

(28) Another question debated in this case is that whether Hindi version of Rule 9 (3) should prevail over English version or *vice versa* etc. Suffice it to state that the directions issued by the Hon'ble Supreme Court in paragraph 92 of the judgment in **Ashok Lanka and another Vs. Rishi**

Dixit and others[1] (supra) binds the respondents 1 to 12 authorities. If respondents 1 to 12 had any reason to think that the directions issued by the Hon'ble Supreme Court were not in accordance with law, they would have moved before the Hon'ble Supreme Court for modification and/or clarification. Be that as it may, it is well settled law that where the laws are passed in an Indian language and are translated into English, the authoritative version shall be the English if there is any conflict between the two versions. A Division Bench of the Madhya Pradesh High Court (Indore Bench) in **Messrs. Govindram Ramprasad Vs. Assessing Authority (Sales Tax) and another**[5] (supra) has held that Articles 348 and 349 of the Constitution clearly provide that where laws are passed in an Indian language and are translated into English, the authoritative version shall be the English. The Full Bench of the Allahabad High Court **Jaswant Sugar Mills Ltd., Meerut Vs. The Presiding Officer, Industrial Tribunal (III) U.P., Allahabad and others**[6] (supra) has opined that if a Bill or Act is published in the official Gazette in Hindi as well as English, both versions are authorized, but, in case there is any conflict between the two versions, English version is to be treated as authoritative. The Full Bench of the Allahabad High Court has held so on consideration of the provisions of Clause (3) of Article 348 and Articles 200 and 210. The reasoning of the Full Bench is as follows:

> "Inasmuch as it has been left under Art. 348 (3) to the high authority of the Governor to have a translation prepared the chances of the translation not being faithful to the original Act are extremely remote. Therefore, normally the two versions would give out the same thing. The Constituent Assembly, however, in view of the proverbial imperfection in

all human products and human institutions thought it proper by way of abundant caution to provide that if at all there ever be a divergence between the English version as translated and the original version in the language prescribed by the State the former would be deemed to be the authoritative text.

It is not necessary for me to explore the reasons which led the Constituent Assembly to make such a provision but the most obvious one appears to be that India was going to be a federation of States in which different languages were used and it was necessary to have one common language for all India and inter-State purposes both for reasons of national unity as also of convenience. Unlike Canada where Acts of Parliament and the legislature of Quebee are passed in English as also in the regional language (French) and both are authoritative, we in India decided to follow the Irish example to some extent where Acts are passed in the Irish or English language but are translated into English or the Irish language in whichever they are not originally passed by virtue of Sec. 5 of the Constitution of Ireland.

It would be noticed that under the provisions of Art. 348 of the Constitution the language of the Supreme Court and the High Courts is English though in the case of the latter the Governor with the previous consent of the President may direct the use of any other language. The Bills, Acts, Ordinances, Rules, Regulations, orders or Bye-

laws have to come up for interpretation both before the High Courts and the Supreme Court. If there was no provision for an English translation and its being treated as an authoritative text, there would be difficulty both in the High Courts as also in the Supreme Court because Bills, Acts, Ordinances, etc., from Bengal would be in Bengali, from Madras in Tamil, from Andhra in Telugu, from Gujrat in Gujrati, from Maharashtra in Marathi and from U.P. in Hindi. In order to avoid this difficulty and inconvenience as also to bring in national homogeneity, it was provided that there should be an authoritative text in English until the Parliament by law otherwise provided. From what I have said above, it is clear that both the Hindi version as also the English translation of a Bill, Act, etc., are valid. There is no competition between the two. It is only in case of conflict or divergence between the two versions that the question of authoritative text comes in.

The view that I am taking finds support from a Division Bench decision of this Court in the case of Haji Lal Mohammad Biri Works V. Sales Tax Officer, AIR 1959 All 208 : (1959) 10 STC 424, and the decision of their Lordships of the Supreme Court in J.K. Jute Mills Co. Ltd. V. State of Uttar Pradesh, (1961) 12 STC 429 at p. 435 : (AIR 1961 SC 1534 at p. 1538), where the Allahabad case mentioned above was approved of. In the Supreme Court case the Validation Act was published both in Hindi and in English. A question arose as to whether the Hindi version could be

used to clear what appeared to be ambiguous in the English version, and their Lordships observed as follows:

"It should further be noted that the Validation Act was published both in Hindi and in English, and both of them were authorized versions. The words in the Hindi version make it clear beyond all doubt that the words, in the form in which they were in force immediately before the commencement of this Act' qualify the word 'sections' and not the word 'notifications'. That is the view expressed by a Bench of the Allahabad High Court in AIR 1959 All 208, on a comparison of the two versions, and we are in agreement with it".

Furthermore, a five-Judge Bench of Allahabad High Court in **Smt. Ram Rati and others Vs. Gram Samaj, Jehwa and others**[7] (supra) having considered the judgment of the Full Bench of that High Court in the case of **Jaswant Sugar Mills Ltd., Meerut Vs. The Presiding Officer, Industrial Tribunal (III) U.P., Allahabad and others**[6] (supra) held that in case of conflict between the two versions English text shall prevail over the Hindi version. We are in respectful agreement with the above views of the Division Bench of the Madhya Pradesh High Court and Full Bench and five-Judge Bench of the Allahabad High Court. The two judgments of the Madhya Pradesh High Court in **Satyabhan Singh Jadon Vs. State of Madhya Pradesh and another**[4] (supra) and **Ram Lakhan Rawat Vs. State of M.P. and others**[4] (supra) on which reliance was placed by the learned counsel for the contesting private respondents are by the same learned Single Judge. The learned Single Judge has not referred to or considered the provisions of Clause (3) of Article 348 and/or Articles 200

and 210 of the Constitution or the binding decision of the Division Bench of the Madhya Pradesh high Court in **Messrs. Govindram Ramprasad Vs. Assessing Authority (Sales Tax), and another**[5] (supra). In that view of the matter, the above two judgments of the learned Single Judge are judgments *per incuriam* and not good law. We, therefore, hold that if there is a conflict between Hindi text and English text of sub-Rule (3) of Rule 9 of the Rules, the English text shall prevail over the Hindi version.

(29) The submission made by Shri B.P. Sharma learned counsel for respondents 67, 76, 77, 78, 81and 89 and Shri V.G. Tamaskar learned for respondents 23, 24, 25, 26 and 48 noted above are required to be noticed only to be rejected. The parties should win or lose on substantial grounds and not on technical flaws, nay, tortures. Simply because in the affidavit sworn to by the first petitioner, he does not specifically state which averments in the writ petition are based on personal knowledge and which averments are based on record and information, it cannot be said that the writ petition should not be dismissed in *limine* as contended by Shri V.G. Tamaskar. Similarly, the argument of Shri B.P. Sharma that the instant writ petition is not maintainable does not merit our acceptance. The judgment of the Supreme Court in **Ashok Lanka and another Vs. Rishi Dixit and others**[1] (supra) equally binds this Court. The law laid down by the Supreme Court is binding on all Courts and Tribunals by virtue of Article 141 of the Constitution and where the Supreme Court has stated that the law laid down in a particular case is the applicable law, the High Court cannot consider or rely on any supposedly conflicting decision. The general principle of law laid down by the Supreme Court is applicable to every person including those who were not parties to that order. Secondly, it needs to be noticed that it is very much within the power of

this Court under Article 226 of the Constitution to enforce the public law obligations cast on respondents 1 to 12 statutory authorities by virtue of the directions issued by the Supreme Court in paragraph 92 of the judgment in **Ashok Lanka and another Vs. Rishi Dixit and others**[1] (supra). Thirdly, the Supreme Court itself in para 93 of the judgment has reserved liberty to the petitioners and the respondents before it to mention before this Court thereby meaning to approach this Court for appropriate order(s).

(30) Before parting with this case, a passionate appeal made by the learned counsel for the contesting private respondents 13 to 89 be noted. According to them, the term of licences granted to the contesting private respondents would come to an end on 31.03.2006 and, therefore, at this fag end of the licence, it is not appropriate to annul the licences even if a case is made out for quashing. It was further submitted by the learned counsel for the contesting private respondents that none of the licencees have committed any default in the matter of payment of the Government dues after the licences were granted to them. This submission of the learned counsel for the contesting private respondents would not appeal to us. When the Court is satisfied that the grant of licences in favour of the above respondents is vitiated not only on account of the infraction of mandatory Rules 9 and 11 of the Rules but also on account of the violation of the directions issued by the Supreme Court in paragraph 92 of the judgment in **Ashok Lanka and another Vs. Rishi Dixit and others**[1] (supra), we cannot put stamp of approval on the impugned action of the respondents 1 to 12. We have noted above the circumstances leading to the delay in hearing this writ petition at an earlier date, but the fact is that there was absolutely no delay on the part of the

petitioners in moving this Court. The respondents 13 to 89 who are the beneficiaries of the illegal acts of respondents 1 to 12 cannot be allowed to have the continued benefits of wrong-doings of respondents 1 to 12 till the term of the licences comes to an end.

(31) In the result and for the foregoing reasons, we allow the writ petition and quash the entire proceedings culminating in the grant of licences in favour of respondents 13 to 89 during the excise year 2005-2006. Respondents 1 to 12 are directed to make selection for grant of licences under the Rules strictly in accordance with law and the directions of the Hon'ble Supreme Court issued in the case of **Ashok Lanka and another Vs. Rishi Dixit and others**[1] (supra). In the facts and circumstances of the case, the parties shall bear their respective costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Brajesh*